

**Novato Disposal Services, Inc. and International Brotherhood of Teamsters, Local 624, AFL-CIO, Petitioner.** Case 20-RC-17513

February 10, 2000

**DECISION ON REVIEW AND ORDER**

BY MEMBERS FOX, LIEBMAN, AND HURTGEN

On November 4, 1999, the Regional Director for Region 20 issued a Supplemental Decision and Direction of Election, in which he found that the smallest appropriate unit for bargaining consisted of drivers, drivers' helpers, mechanics, mechanics' helpers, recycle laborers, bailers, and buy-back attendants at all of the Employer's unrepresented companies.<sup>1</sup>

Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, the Petitioner filed a timely request for review of the Regional Director's supplemental decision. The Petitioner requested that the Regional Director's determination that mechanics and mechanics' helpers be included in the unit found to be appropriate be reversed, and that those classifications be excluded from any election held.<sup>2</sup>

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Having carefully considered the record in its entirety, we grant the Petitioner's request for review and find, contrary to the Regional Director, that mechanics and mechanics' helpers do not share such a close community of interest with the included employees as to require their inclusion in the unit.

The Employer's operation includes two primary facilities at Petaluma and Santa Rosa, California, a yard in Gualala, California, and five transfer stations. The Santa Rosa and Petaluma facilities house a number of companies, all owned and operated by the Employer, that perform a variety of garbage/debris hauling and recycling functions. In all, the Employers' companies employ approximately 101 employees in various driver, helper, and recycle laborer positions. The Employer has mechanics shops located at the Petaluma and Santa Rosa facilities. The main mechanic shop, located in Santa Rosa, employs six mechanics and four helpers. The Petaluma shop employs three mechanics.

In finding that the mechanics must be included in the unit, the Regional Director reasoned that the mechanics,

like most of the drivers, work out of the Petaluma and Santa Rosa facilities, and have common supervision, regular contact, comparable wage rates, and significant interchange with the other unit employees. In his prior May 17, 1999 Decision and Direction of Election, the Regional Director found that mechanics were excluded from the petitioned-for unit of drivers because they perform distinct work, and have specialized skills, different hours, and different pay rates. In requiring the inclusion of mechanics in the unit here based on the same record facts, the Regional Director made no attempt to distinguish these earlier findings. In our order remanding, *id.* at fn. 1, we explicitly did not address the Employer's argument that mechanics should be included.

While it is true that mechanics work out of the two main facilities at Petaluma and Santa Rosa, their work is generally limited to the mechanics' shops or performing repairs on the Employer's trucks on the road. Unlike drivers, who are generally assigned to a single company, mechanics work for all of the Employer's companies. Drivers' interaction with mechanics is limited to submitting reports on their trucks, bringing a truck to the shop for service or inspection, or calling a mechanic for road service.

With regard to interchange, four mechanics' helpers have permanently transferred to various driving positions. However, the record does not indicate the time period over which these transfers occurred, and there is no evidence that drivers have ever transferred to mechanic or mechanics' helper positions.<sup>3</sup> Temporary transfers are limited to one helper who works as a recycle laborer a portion of each day and one mechanic who performs some driving on an "as needed" basis, but the record does not reveal how often this occurs.

Although the Employer's owner or operations manager supervises all employees, including drivers and mechanics, it appears that the mechanics' shops are generally autonomous, with lead mechanics Jerry Roy or Jose Robles distributing work to the mechanics based on specialty.<sup>4</sup> Alternately, in the absence of Roy or Robles, the mechanics decide among themselves how work should be distributed. In any event, the presence of shared supervision is but one factor to be considered, and is not necessarily determinative of unit determinations. See *Mc-Mor-Han Trucking Co.*, 166 NLRB 700, 701 (1967).

Other factors militate against requiring the mechanics' inclusion in the unit. Although the record does not reveal what, if any, certifications are possessed by the Employer's mechanics, it is undisputed that they are very

<sup>1</sup> The Regional Director previously found appropriate the petitioned-for unit of drivers and drivers' helpers employed at the Employer's Petaluma facility. On June 25, 1999, the Board found, contrary to the Regional Director, that the Employer had rebutted the single facility presumption and that the petitioned-for unit was not appropriate. *Novato Disposal Services*, 328 NLRB 820 (1999). The Board remanded the case to the Region to determine the appropriate unit for bargaining, expressing "no view as to whether an overall unit . . . or whether some lesser combination of facilities and/or classifications would also be appropriate." *Id.* at fn. 2.

<sup>2</sup> The election was "blocked" by certain pending unfair labor practice proceedings.

<sup>3</sup> In any event, the Board has long regarded permanent transfers to be a less significant indication of actual interchange than temporary transfers. See *Red Lobster*, 300 NLRB 908, 910 (1990).

<sup>4</sup> Roy also sits in on interviews, assigns road calls, and determines what supplies are needed in the mechanics' shop.

highly skilled employees.<sup>5</sup> They perform major and minor repairs and inspections for all of the Employer's vehicles and have a minimum of 4–5 years and up to 30 years' experience as mechanics. Each mechanic has a subspecialty, and mechanics' helpers are considered to be apprentices in training to become mechanics. In contrast, drivers do not possess the same skills, perform no mechanics' work, and do not assist mechanics with repairs.<sup>6</sup> Finally, mechanics' pay scale differs from that of drivers; mechanics earn between \$10.50 and \$27 per hour, while most drivers earn between \$6 and \$20 per hour.

Because of these differences, we find, contrary to the Regional Director, that mechanics and mechanics' helpers need not be included in the unit.<sup>7</sup> Accordingly, we

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<sup>5</sup> See *Overnite Transportation Co.*, 322 NLRB 347, 349–350 (1996), reconsideration denied 322 NLRB 723 (1996) (finding that it is “all but self-evident that mechanics must have specialized skills” based on their performance of major and minor mechanical repairs).

<sup>6</sup> Indeed, one driver testified that drivers are actively discouraged from attempting truck repairs.

<sup>7</sup> In *Overnite Transportation Co.*, 322 NLRB at 349–350, the Board refused to require the inclusion of mechanics in a petitioned-for unit of

modify the Regional Director's decision to exclude mechanics and mechanics' helpers from the unit found appropriate.

#### ORDER

The Regional Director's supplemental decision is reversed with respect to his inclusion of mechanics and mechanics' helpers in the unit. This proceeding is remanded to the Regional Director for further appropriate action.

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drivers, noting, inter alia, that the mechanics had specialized skills, training, and equipment; worked different hours; performed major mechanical work; had separate terms and conditions of employment; and did little driving. See also *Overnite Transportation Co.*, 325 NLRB 612 (1998); *Laidlaw Waste Systems v. NLRB*, 934 F.2d 898 (7th Cir. 1991), enfg. 299 NLRB No. 124 (1990) (not reported in Board volumes). Member Hurtgen, who dissented in *Overnite Transportation*, 325 NLRB 612 (1998), finds that case to be distinguishable. In that case, the fact pattern was that the union had sought the inclusion of mechanics in some units and the exclusion from other units of the same employer, based (in Member Hurtgen's view) solely on the desires of the petitioning union. That fact pattern is not present here.